

# MACRS

## MISSING TIME IN HIGH THREE



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**MACRS 2014 FALL CONFERENCE**

## Ch. 32 Section 5(3)(b)

- Any duly authorized leave or period of absence for which any member is allowed creditable service under sections 1 to 28, inclusive, and any such leave or period of absence not in excess of 1 year for which such member is not allowed creditable service, shall be included in any applicable 3-year or 5-year period to determine the average annual rate of such member's regular compensation therefor to the extent such leave or period of absence falls within such applicable 3-year or 5-year period, anything in such sections to the contrary notwithstanding. In determining any such average annual rate of regular compensation for any member, the rate in effect for him immediately preceding any period of his absence without compensation shall be used as the rate for such period of absence.

# Who Qualifies - Part 1

- Any duly authorized leave or period of absence for which any member is allowed creditable service under sections 1 to 28

## Who Qualifies - Part 2

- ...any such leave or period of absence not in excess of 1 year for which such member is not allowed creditable service

# Payoff

- ...the rate in effect for him immediately preceding any period of his absence without compensation shall be used as the rate for such period of absence

# Assumption

- All examples in this presentation assume the high 3 is the final 3.
- Principles still apply if high 3, and included leaves, are not the final 3.

# Most Common Uses

- Workers' compensation
  - Total incapacity
    - Chapter 152
      - Section 34: 156 week limit
      - Section 34A: lifetime
- Furlough days

# Member A History

- Salary
  - \$700 effective 1/1/2011
  - \$714 effective 1/1/2012
- Workers' Compensation
  - total incapacity started 5/5/2012
  - received no other pay
- Retirement date is 10/1/2014



# Member A Salary Calculation

- Last three years

- 10/2/2011-10/1/2014

- 10/2/2011-12/31/2011 @ \$700 / week = \$9,100

- 1/1/2012-5/4/2012 @ \$714 / week = \$12,852

- 5/5/2012-10/1/2014 @ \$714 / week = \$89,678.40

- Total \$111,630.40

- Average \$37,210.13

## Member B - No Service

- Hire date 8/9/1989
- Retirement date 12/13/2014
- FMLA 3/4/2013-9/4/2013
- Total service 25 years 4 months less 6 months equals 24 years 10 months
  - Board can add one month - 4(1)(c)

## Member B Salary Rates

- 7/1/2011: \$1,000 / week
- 7/1/2012: \$1,020 / week
- 7/1/2013: \$1,040.40 / week
- 7/1/2014: \$1,061.21 / week

## Member B Average Salary

- Retirement date back 3 years
  - 12/14/2011-12/13/2014
    - 12/14/2011-6/30/2012 @ \$1,000 / week = \$28,600
    - 7/1/2012-3/3/2013 @ \$1,020 / week = \$35,700
    - 3/4/2013-9/4/2013 @ \$1,020 / week = \$27,132
    - 9/5/2013-6/30/2014 @ \$1,040.40 / week = \$44,321.04
    - 7/1/2014-12/13/2014 @ \$1,061.21 / week = \$25,256.80
    - Total \$161,009.84
    - Average \$53,669.95

## But wait!

- 12/14/2011-12/13/2014 is 2 years 6 months of service
- Don't you always use 3 years of service?
  - Reread 5(3)(b)
  - Such leave “shall be included in any applicable 3-year or 5-year period to determine the average annual rate of such member’s regular compensation therefor to the extent such leave or period of absence falls within such applicable 3-year or 5-year period, anything in such sections [1-28] to the contrary notwithstanding”

# Corollaries

- Unpaid leave over one year
  - Workers' compensation partial incapacity
    - Chapter 152 Section 35- 520 week limit
    - No service if no other compensation paid

## Member C Work History

- Hired 3/14/1985
- Received partial incapacity workers' comp 3/14/2011-5/1/2013
- Retirement date 10/31/2014
- Total service 27 years 6 months

## Member C Salary

- 1/1/2009: \$800 / week
- 1/1/2010: \$840 / week
- 1/1/2011: \$882 / week
- 1/1/2012: \$926.10 / week
- 1/1/2013: \$972.41 / week
- 1/1/2014: \$1,021.03 / week



## Member C 3-Year Average

- 5(3)(b) does not apply due to length of approved leave
- Need to use last 3 years of service
  - 5/2/2013 - 10/31/2014
  - 9/13/2009 - 3/13/2011

## Member C 3-Year Average

- 9/14/2009-12/31/2009 @ \$800 / week = \$12,640
- 1/1/2010-12/31/2010 @ \$840 / week = \$43,848
- 1/1/2011- 3/13/2011 @ \$882 / week = \$8,820
- 5/2/2013- 12/31/2013 @ \$972.41 / week = \$33,839.87
- 1/1/2014-10/31/2014 @ \$1,021.03 / week = \$44,516.91
  - Total \$143,664.78
  - Average \$47,888.26

## Member D

- Same as C, except
  - Assume member works one day per week during the 3/14/11-5/1/13 period of partial workers' comp
    - Changes service, calculation methodology
  - 5(3)(b) does not apply because leave is not unpaid

## Member D

- 11/1/11-10/31/14 now 3 years of service
  - See PERAC Memo #22/2010
- If 5(3)(b) is out, what applies?
  - 5(2)(a)- “the average annual rate of regular compensation received”
  - if paid for one day, can pretend paid for the full week

## Member D Average Salary

- 11/1/2011-12/31/2011 @ \$882 / week = \$7,761.60
- 1/1/2012-12/31/2012 @ \$926.10 / week = \$48,342.42
- 1/1/2013-12/31/2013 @ \$972.41 / week = \$50,759.80
- 1/1/2014-10/31/2014 @ \$1,021.03 / week = \$44,516.91
  - Total \$151,380.73
  - Average \$50,460.24

## Legal Question

- Does a suspension for disciplinary reasons count as an approved leave?
- Yes!